

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COY PHELPS,

Plaintiff,

v.

DAVID WINN, et al.

Defendants.

Civ. No. 05-CV-40003-GAO

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO ANSWER
OR OTHERWISE RESPOND TO THE COMPLAINT**

The Defendants David Winn, B. Potolicchio, and H. Haas, through their undersigned counsel, hereby move to extend their time to answer or otherwise respond to the Complaint in this action up to and including November 13, 2007, for the following reasons:

1. The Complaint in the above-captioned case contained eighteen causes of action against twelve defendants. On July 14, 2005, the Defendants moved to dismiss all eighteen causes of action. The Court, in an Order dated September 27, 2007, granted Defendants' motion to dismiss as to thirteen causes of action; three causes of action and the three above-named defendants now survive.
2. The undersigned counsel was only recently assigned to this matter, and therefore, needs the additional time in order to familiarize herself with this action in order to appropriately respond to the Complaint in the above-captioned case.
2. The Bureau of Prisons ("BOP") legal office is responsible for providing litigation support for these cases. That office's support is required to address the underlying merits of the case. The BOP legal office is diligently working, along

with the undersigned counsel, through the surviving allegations raised by Plaintiff in the instant case, but will not be able to complete that task before the current deadline for filing a response to the Complaint, which is October 11, 2007.

WHEREFORE, for all of these reasons, the Defendants respectfully request that their time to answer or otherwise respond to the Complaint in this case be extended to November 13, 2007.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Sonya A. Rao
SONYA A. RAO
Assistant U.S. Attorney
John J. Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

Date: October 10, 2007

CERTIFICATE PURSUANT TO LR. 7.1(A)(2)

The Defendants take the position that, because LR. 7.1(A)(2) requires “counsel” to confer, the Rule is inapplicable where, as here, Plaintiff is proceeding pro se and is incarcerated. To the extent the Court considers the Rule applicable, the undersigned requests that it be waived here.

By: /s/ Sonya A. Rao
SONYA A. RAO
Assistant U.S. Attorney
John J. Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

Date: October 10, 2007

CERTIFICATE OF SERVICE

I certify that, on October 10, 2007, I caused a copy of the foregoing **DEFENDANTS' MOTION FOR EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO THE COMPLAINT** to be served, via first class mail, postage pre-paid, on the following pro se Plaintiff:

Coy Phelps, #78872-011
FMC Devens
P. O. Box 879
Ayer, Massachusetts 01432.

By: /s/ Sonya A. Rao
SONYA A. RAO
Assistant U.S. Attorney
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Date: October 10, 2007